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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09:766,113	01-19-2001	Wesley B. Bruce	1166	1157
22310 75	90 12 30 2002			
PIONEER HI-BRED INTERNATIONAL INC. 7100 N.W. 62ND AVENUE P.O. BOX 1000			EXAMINER	
			HELMER, GEORGIA L	
			1638	7
			DATE MAILED: 12/30/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner			Application No.	Applicant(s)			
Goorgia L, Helmer			09/766,113	BRUCE ET AL.			
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of the may be available under the provision of 37 CFR 130(a). In no event, however, may a reply to temply filed after SIX (6) MONTHS from the making date of this communication. If the period to revery specified above is lose than through of 37 CFR 130(a), in no event, however, may a reply to temply filed after SIX (6) MONTHS from the making date of this communication. If the period to revery specified above is lose than through of 30 cFR 130(a), and application to become ABANDONED (35 U.S € \$133). Failure to reply within the set or extended period for reply with by statute, cause the application to become ABANDONED (35 U.S € \$133). Any reply receded by the Office date then three moments after the making date of this communication, even if timely free, may reduce any examed patient term utilities. Sen 37 CFR 1 704(b). Status 1) □ Responsive to communication(s) filed on 21 October 2002. 2a) □ This action is FINAL. 2b) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 1-23 is/are pending in the application. 4a) ○ Claim(s) 1-23 is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are objected to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. If approved, corrected drawing correction filed on is: a) □ approved b) □ disapproved by the Examiner. If approved, corrected drawing sare required in reply to this Office action. 12) □ The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) □ Ac	Office Action Summary		Examiner	Art Unit			
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of them may be available under the provisions of 3 CFR 1136(a). In no event, however, may a reply be timely filed. If the period for reply is specified above, he asked them they (201 agas, a reply within the statutory minimum of thiny (30) days, will be considered timely. If IND period for reply is specified above, he maximum statutory period aliapply and values be SX (6) MONTHS from the making date of this communication. Failure to reply within the set or extended period for reply with by statute, clause the application to become ABANDONED (35 U.S.C.§ 113); Any topy scene abby the Official better with when making date of this communication, even if firmley filed, may reduce any Status 1)② Responsive to communication(s) filed on 21 October 2002. 2a) This action is FINAL. 2b)② This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)③ Claim(s) 1-23 is/are pending in the application. 4a) Of the above claim(s) 11-23, is/are withdrawn from consideration. 5)□ Claim(s) is/are allowed. 6)□ Claim(s) is/are allowed. 6)□ Claim(s) is/are objected to. 8)③ Claim(s) 1-20 are subject to restriction and/or election requirement. Application Papers 9)□ The specification is objected to by the Examiner. Application Papers 10)□ The drawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11)□ The proposed drawing correction filed on is/are: a)□ accepted or b)□ objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12)□ The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. § 119(a)-(d) or (f). a)			pears on the cover sheet with the c	orrespondence address			
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Attachment(s)	a)	☐ The translation of the foreign language pro	visional application has been rec	eived.			
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s).							
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other:	2) 🔲 Notice	e of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal F				

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Election/Restrictions

1. This is a supplementary restriction election to that issued September 19, 2002, to which Applicant responded on October 21, 2002. Applicant elected Group I, claims 1-10, with traverse. Group I, claims 1-10, is drawn to DNA promoters.

However, Group I claims are hereby restricted to polynucleotides of the group SEQ ID NO: 1-8. Applicant needs to elect one of these SEQ ID Nos. for further prosecution.

- 2. Inventions SEQ ID NO: 1-8 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case they have different modes of operation, different functions, or different effects. The DNA sequences of the different inventions are different DNA sequences and have different effects. Their effects are different, when used as hybridization probes, where identity is required. These sequences have different effects under these conditions
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the literature and sequence searches required for each of the Groups are not required for another of the Groups, restriction for examination purposes as indicated is proper.
- 4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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- 5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Georgia L. Helmer whose telephone number is 703-308-7023. The examiner can normally be reached on 8:30 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 703-306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Georgia L. Helmer Pho Patent Examiner Art Unit 1638 December 26, 2002 ELIZABETH F. McELWAIN PRIMARY EXAMINER GROUP 1800